



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
CITY COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, CITY HALL  
DECEMBER 12, 2011  
1:30 P.M.**

Chair Aguilar called the meeting to order at 1:30 p.m.

The following Board Members answered roll call:

Mr. Rick Aguilar, Chair  
Mr. Rigoberto Mendez, Vice-Chair  
Mr. Ken Gezelius  
Mr. Michael Bray (1:32 p.m.)  
Mr. Robert Concha, Jr.  
Mr. Rick Cordova  
Mr. Jeff Gonzalez  
Mr. Scott Walker  
Mr. Lamar Skarda

The following City Staff were present:

Ms. Linda Castle, Planning & Economic Development, Senior Planner  
Mr. Juan Estala, Engineering & Construction Management, Chief Plans Examiner  
Ms. Cynthia Osborn, City Attorney's Office, Assistant City Attorney

Staff noted there were no changes to the agenda.

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Prior to the meeting, Staff distributed a revised survey and site plan to Board Members.

**ITEM 1:**

PZBA11-00038                      1101 Kelly Way                      Trent and Natalie Thompson  
Applicants request a Special Exception under Section 2.16.050 K (15 Years or More, Side and Rear Yard Setbacks) in an R-3 (Residential) zone. This would permit existing additions (22' by 28') to the main structure that are located to within 0' of the westerly side property line and to within 16' of the rear property line. The required side yard setback is 5 feet and the required front and rear yard cumulative setback total is 50 feet in the R-3 zone district. The applicants purchased the subject property in January 2011. They are requesting to keep additions that existed at least 15 years ago. One of the additions can be seen in the 1956 aerial and has been registered legally nonconforming, existing prior to the effective date of the zoning code in 1955. The requested additions, except for the carport, can be seen in the 1996 aerial. The carport was constructed, without permit, after 1996 and will have to be removed. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST FOR THE SPECIAL EXCEPTION K WITH A CONDITION THAT THE CARPORT IS REMOVED.**

Ms. Castle gave a PowerPoint presentation and noted Staff received two phone calls from neighbors inquiring about the request.

Mr. Fred Dalbin, Wright & Dalbin Architects, Inc., representing the applicants, concurred with Staff comments.

In response to a question about overhead electric lines, Mr. Trent Thompson, applicant, explained that prior to the purchase of the home, the El Paso Electric Company removed and raised the line.

Chair Aguilar asked if anyone in the audience wished to speak in favor of or opposition to the request.



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**MOTION:**

Motion made by Mr. Bray, seconded by Mr. Gezelius and **UNANIMOUSLY CARRIED TO ACCEPT STAFF RECOMMENDATION.**

*Prior to the meeting, Staff distributed a revised site plan to Board Members.*

**ITEM 2:**

PZBA11-00039            2420 Gairloch Drive            Ruben and Brenda J. Figueroa  
Applicants request a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 (Residential) zone. This would permit a proposed 23' by 12' addition of which a 23' by 7' portion (161 square feet) encroaches in the required rear yard setback, located to within 18' of the rear property line. The required front and rear yard setback cumulative total is 50 feet in the R-3 zone district. The applicants are requesting an addition that encroaches in the rear yard. There is an accessory building in the rear yard that is located within 5 feet of the main structure; *however, the applicant has submitted a site plan that shows that there is 5 feet separation from the main structure.* **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST FOR THE SPECIAL EXCEPTION C WITH A CONDITION THAT THERE SHALL BE 5 FEET OF SEPARATION BETWEEN THE MAIN HOUSE AND THE ACCESSORY BUILDING.**

Ms. Castle gave a PowerPoint presentation and noted Staff did not receive any response from the neighbors.

Mr. and Mrs. Figueroa, applicants, were present. Mr. Figueroa explained he was in the process of removing the cover.

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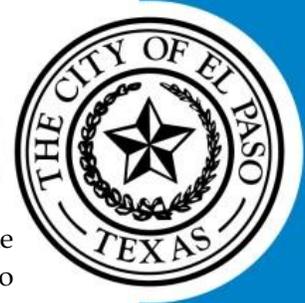
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In response to a question about an attachment to the roof at the rear of the accessory building, Ms. Castle explained the applicant cannot shed water onto the neighbor's property; however, if the cover was short of the fence, that would be allowed. Staff is not requiring the applicants to remove the accessory building.

**1<sup>ST</sup> MOTION:**

Motion made by Mr. Gezelius to **APPROVE**.

Prior to the vote, Chair Aguilar asked if anyone in the audience wished to speak in favor of or opposition to the request. There was none.

**2<sup>nd</sup> MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Bray and **UNANIMOUSLY CARRIED TO APPROVE**.

*Prior to the meeting, Staff distributed copies of the revised elevation drawing, revised structural drawing, and revised site plan to Board Members.*

**ITEM 3:**

PZBA11-00031                      10181 Saigon Drive                      Carlos R. and Lupe Castaneda  
Applicants request a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an R-3 (Residential) zone. This would permit a 15' by 20' carport that is proposed to encroach into the front yard setback and to be located to within 5' feet of the front property line. The required front and rear yard setback cumulative total is 50 feet in the R-3 zone district. This case was postponed from the November 14, 2011 meeting to allow the applicant to submit a revised site plan that shows all curb cuts for driveways, revised structural drawings that accurately reflect the location of the carport and an architectural design to match the house. The applicant submitted a carport design with a flat roof that does not rise higher than the roof of the house with roof materials and paint to match the existing house. There is no utility easement at the front property line.



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The Engineering & Construction Management Department has reviewed the structural plans and found them acceptable. Staff suggested to the applicant that the carport design be changed to a pitched roof and to include columns faced with brick to match the house. A site visit shows a shed located less than 5 feet from the main structure and located in the side setback. The applicant provided a survey that shows that the structure was there when she purchased the house.

Ms. Castle gave a PowerPoint presentation and noted the applicant has submitted revised elevation drawings; however, the revised drawings show the same as what was originally proposed, a flat roof with shingles and pipe columns. The applicant submitted a revised site plan with curb cuts for the other driveway and revised structural plans. Engineering & Construction Management Staff did approve the original structural plans for the carport. **STAFF RECOMMENDS DENIAL SINCE THE APPLICANT DID NOT SUBMIT PLANS FOR A MATCHING/COMPLEMENTARY DESIGN FOR THE CARPORT ROOF.**

Mr. Richard House, representing the applicant, and Ms. Lupe Castaneda, property owner, were present.

Mr. House understood why Staff recommended denial of the request. He explained the preliminary design of the carport roof shows a flat roof; however, Board Members have recommended a pitched roof for the carport that matches the gable roof. Ms. Castaneda did not anticipate the added cost for the pitched roof; she just wanted something to cover the car. Ms. Castaneda wants to upgrade the roof to come up just a little bit more. Mr. House explained he was agreeable to raising the roof further up.

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Mr. Aguilar clarified Board Members previously requested matching brick, half way up the columns, to comply with the architectural design and color scheme requirement of the Special Exception.

Mr. House responded now, with a gable roof, he is required to remove a portion of the existing roof to match the new carport.

Ms. Castle clarified Ms. Castaneda had previously agreed to matching brick half-way up the columns.

Mr. Gonzalez interjected Board Members have not seen the revisions in the site plan. The applicant's representative has not submitted plans as requested by the Board Members.

Mr. Walker asked if Board Members could move to approve subject to submittal of new plans.

Ms. Castle responded that would be up to Board Members to decide, Staff would ensure the applicant submit plans with brick half-way up the columns.

Mr. Bray remembered Board Members asked the applicant to revise the plans to show:

1. brick columns, half way; and
2. pitch on the roof

Mr. Cordova felt that a pitched roof was not a necessity.

Mr. Gonzalez asked Staff for the minutes from the previous ZBA meeting.

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Mr. Bray remembered Board Members had two requirements of the applicant, the applicant agreed to both requirements. Now, the applicant is agreeing to one of the two requirements. He thought that was a change from what was agreed upon at the last meeting. Just so everyone is aware, there is a change from what we agreed from the last meeting.

Mr. Cordova remembered Counsel explaining it was not a requirement that the roof be pitched, just that the roof match the house.

Ms. Osborn referred to Section 2.16.050 J. 3. *"The carport shall be constructed of the same material, architectural design, and color scheme as the residential structure, ..."*. She explained it was up to Board Members whether or not the architectural design meets those requirements. Additionally, Ms. Osborn believed Board Members should not make a motion conditional on seeing the site plan. The applicant is required to submit site plans prior to coming before the Board; the Board is making decisions based on what the applicant has submitted. Ms. Osborn explained the Board can make a motion with conditions; for example, *"approving the request under the condition that the applicant ...."*

**1<sup>st</sup> MOTION:**

Motion made by Mr. Walker, seconded by Mr. Mendez **TO ACCEPT THE PLANS THAT WE HAVE BEFORE US CONDITIONAL UPON THE BRICK COLUMNS BEING ADDED AT LEAST HALF WAY UP ON THE COLUMNS OF HOUSE AND ACCEPTING THE PITCH AS SHOWN.**

Prior to the vote, Mr. Cordova was concerned that Staff would not have the time to review the carport. To come out 20' and to have slope on the roof, it may not be physically possible without the pitched roof. He felt it was important that Engineering & Construction Management Staff have time to review the carport.



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Mr. Estala concurred with Mr. Cordova's comments.

Ms. Osborn asked if Mr. Estala had previously approved the structural plans.

Mr. Estala responded he had not approved the revised structural plans.

Ms. Osborn asked if the letter approving the plans, dated 10/17/2011, written by the Engineering & Construction Management Department pertained to the revised structural plans.

Mr. Estala responded no, the letter pertained to the original plans submitted by the applicant.

Ms. Castle confirmed the revised site plans showed a reduced overhang. She explained the driveway does slope down to the street.

Mr. Cordova thought that the roof did not need to be pitched; however, Staff does need to verify whether or not the carport height would be sufficient.

Mr. Gonzalez reminded Board Members there was a motion on the floor.

Mr. House confirmed that the pitch of the new carport roof does follow the slope of the driveway.

Per the revised elevation plan, Mr. Concha noted the plans show "1/2" to 12 driveway".

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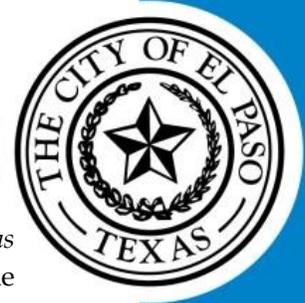
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Ms. Osborne referred to Section 2.16.050 J. 2. *"The zoning board of adjustment has received the written approval of the structural design from the building official"*. She explained the written approval of the design, included in the backup material, was for the previous plans submitted by the applicant. She was unsure whether or not the Board could approve the revised plans.

Ms. Castle explained the design is the same as what was previously approved.

Mr. Aguilar clarified the only thing new today was the site plan showing the curb cuts.

Ms. Castle concurred and added the site plan does show that the posts of the carport will line up with the house.

Mr. Estala explained the structure will remain the way he had originally approved it, with the exception of the reduced overhang.

Mr. Gonzalez noted that the revisions still do not meet the aesthetic requirements of the Special Exception; the applicant has met only one of the two requirements imposed by the Board.

**1<sup>st</sup> MOTION RESTATED:**

Motion made by Mr. Walker, seconded by Mr. Mendez **TO APPROVE WITH THE CONDITION THAT THE COLUMNS MATCH THE EXISTING BRICK ON THE HOUSE TO GO AT LEAST HALF WAY UP.**

Aye/Nay votes were unclear.

After the vote, Vice-Chair Mendez asked if Board Members could include, in the motion language, *"that Staff check the pitch of the slope on the ..."*



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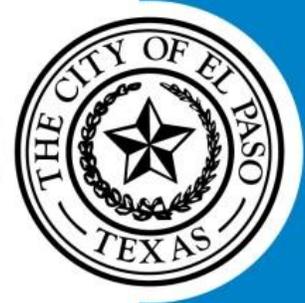
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Ms. Osborn asked for clarification of the motion language.

Vice-Chair Mendez stated *"that Staff ensure the pitch of the slope complies with the Code"*.

Mr. Walker clarified his motion included *"and the pitch as shown"*.

**AYES:** Messrs. Gezelius, Concha, Jr., Mendez, and Walker

**NAYS:** Messrs. Bray, Aguilar, Cordova, Gonzalez, Skarda

Motion failed. (5-4)

Chair Aguilar explained that although the item has been postponed several times, Board Members are requesting new plans showing the matching brick half-way up the columns and documents so that Staff may verify the pitch of the roof.

**2<sup>nd</sup> MOTION:**

Motion made by Mr. Gonzalez **THAT BOARD MEMBERS REVIVE THE 10/17/2011 MOTION.**

Ms. Castle clarified it was the motion from the 10/24/2011 meeting.

Mr. Gonzalez explained the new plans were not submitted, as requested by the Board, per the condition of the motion from the 10/24/2011 meeting.

At this time, Staff read the 1<sup>st</sup> motion, 1<sup>st</sup> amended motion and 2<sup>nd</sup> amended motion language into the record, from the 10/24/2011 meeting.

Ms. Osborn noted that the Board did not require anything about the pitch in the motion language.

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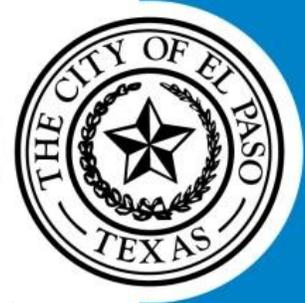
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Ms. Osborn requested Staff read the 2<sup>nd</sup> amended motion language again.

Mr. Walker explained his motion met those requirements; that the brick go half way up; the pitch was not part of it.

Chair Aguilar explained whether or not the pitch is included in the motion, the permit will not be issued if the plans do not meet Code.

Ms. Osborn clarified Board Members are just addressing the architectural design, not the building code requirements.

To the applicant, Mr. Gonzalez explained that Board Members are requesting that the construction materials and aesthetics are met. Architectural design, color scheme, construction material match the existing structure. For Staff, Board Members request the applicant submit revised site plans and structural designs.

**3<sup>rd</sup> MOTION:**

Motion made by Mr. Gonzalez **TO TABLE THE REQUEST, UNDER SECTION 2.16.050 J. 3., TO INCLUDE THE CONSTRUCTION MATERIALS, ARCHITECTURAL DESIGN, AND COLOR SCHEME AS THE RESIDENTIAL STRUCTURE AND THAT A REVISED SITE PLAN BE SUBMITTED TO STAFF INCLUDING THE ARCHITECTURAL DESIGN AND THE SCHEMATICS.** Due to lack of a second, the motion died.

Chair Aguilar explained Board Members were lacking the architectural design; however, the applicant has met the other requirements. He felt that even if Board Members have issues with the pitch, Staff will ensure that the building plans meet code.

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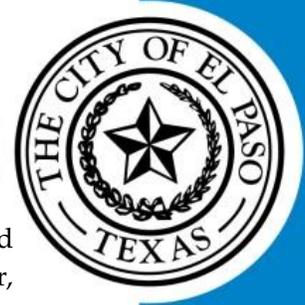
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Mr. Cordova felt the applicant needed further direction as to what the Board Members specifically want. He felt that the roof did not need a pitch; however, he did feel that the roof needed to come up to get the slope into the existing roof but that might change the entire face of the home.

Mr. Estala stated Staff will determine the pitch of the roof per the required submittal of elevation plans by the applicant.

Mr. Cordova thought that Board Members should specifically require the applicant to line the columns with brick and accepting the pitch as shown unless it does not work, then the applicant should put in a gable roof.

Ms. Osborn explained that prior to making motions with conditions, Board Members should agree on what the conditions should be.

Mr. Aguilar clarified the main cause of confusion is that Board Members are unclear what the pitch of the existing carport roofs is.

**4<sup>TH</sup> MOTION:**

Motion made by Mr. Cordova **THAT THE BOARD ACCEPT THE PLANS WITH LINING THE COLUMNS WITH BRICK, ACCEPTING THE PITCH AS SHOWN IN THE PLANS UNLESS IT DOES NOT WORK AT WHICH POINT THEY NEED TO REVISE THE PLANS.**

Ms. Osborn reminded Mr. Cordova that the first motion language requested that the columns be lined with brick half way up the columns.

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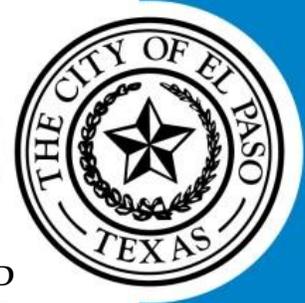
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**4<sup>TH</sup> MOTION RESTATED:**

Motion made by Mr. Cordova, seconded by Mr. Walker AND UNANIMOUSLY CARRIED THAT THE BOARD ACCEPT THE PLANS WITH LINING THE COLUMNS WITH BRICK HALF WAY UP THE COLUMNS, TO MATCH THE FRONT PILLARS THERE ON THE SIDEWALK, ACCEPTING THE PITCH AS SHOWN IN THE PLANS, UNLESS IT DOES NOT WORK AND A GABLE ROOF IS REQUIRED.

**AYES:** Messrs. Gezelius, Bray, Concha, Jr., Mendez, Aguilar, Cordova, Gonzalez, Walker, and Skarda

**NAYS:** N/A

Motion passed. (9-0)

**Other Business:**

4. Approval of Minutes: November 14, 2011

Chair Aguilar asked Board Members if they had any additions/corrections/revisions to the minutes.

**MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Cordova AND UNANIMOUSLY CARRIED TO APPROVE THE NOVEMBER 14, 2011 MINUTES.

**AYES:** Messrs. Gezelius, Concha, Jr., Mendez, Aguilar, Cordova, Walker, and Skarda

**ABSTAIN:** Messrs. Gonzalez and Bray

Motion passed. 7-2



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**MOTION:**

Motion made by Mr. Gezelius AND UNANIMOUSLY CARRIED TO ADJOURN.

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Linda Castle, Senior Planner

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